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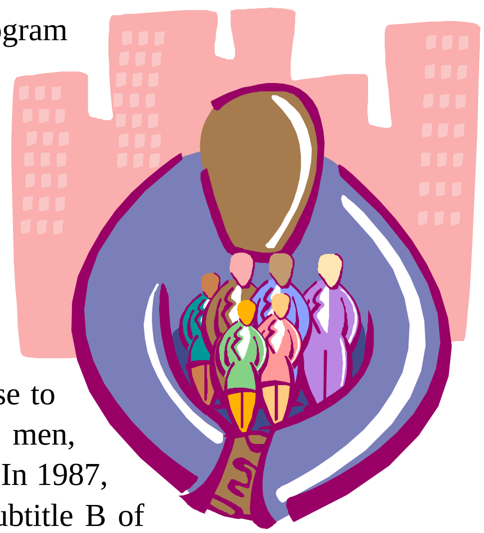
Introduction

What is the Emergency Shelter Grants Program?



The Emergency Shelter Grants (ESG) program is designed to be the *first step* in a continuum of assistance to prevent homelessness and to enable homeless individuals and families to move toward independent living.

The Emergency Shelter Grants program was originally established by the Homeless Housing Act of 1986, in response to the growing issue of homelessness among men, women, and children in the United States. In 1987, the ESG program was incorporated into subtitle B of title IV of the Stewart B. McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371-11378).

ESG is a formula-funded program that uses the Community Development Block Grant (CBDG) formula as the basis for allocating funds to eligible jurisdictions, including States, territories, and qualified metropolitan cities and urban counties for:

- rehabilitation or conversion of buildings into homeless shelters;
- operating expenses;
- essential services; and
- homeless prevention activities.

The Emergency Shelter Grants program is one of four homeless assistance programs operated by the Department of Housing and Urban Development's Office of Special Needs Assistance Programs. The other three are the Supportive Housing Program (SHP), Shelter Plus Care (SPC) program, and Section 8 Single Room Occupancy (SRO) program.

Descriptions of all of these programs can be found on HUD's web site at http://www.hud.gov/cpd/homeless.html.

Why Do You Need This Guide?

This Guide provides an overview of the Emergency Shelter Grants program, describes the funding process, and covers topics including the initial application, grant administration, project implementation, and performance monitoring. Where possible, the Guide includes concrete examples of promising administrative practices from ESG programs around the country. This Guide is not a substitute for the ESG regulations, but provides a practical resource that addresses many of the common questions and issues that arise in the implementation of a local ESG project. It should be used in conjunction with the federal rules and regulations.

For easy reference, this Guide provides various sections of the laws and implementing regulations pertaining to the Emergency Shelter Grants program, namely Title 42 of the U.S. Code (e.g., 42 U.S.C. 11375), as well as parts of Title 24 of the Code of Federal Regulations (e.g., 24 CFR 576). There is also a Glossary at the end of this Guide that defines the key terms cited in the pertinent laws and regulations.

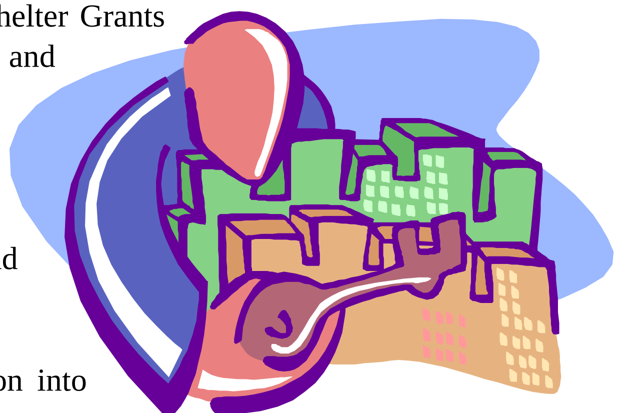
Guide Sections

The ESG Guide is divided into ten major sections. These are:

Section One:
Program Overview

1.1 ESG Program Objectives

The objectives of the Emergency Shelter Grants program are to increase the number and quality of emergency shelters and transitional housing facilities for homeless individuals and families, to operate these facilities and provide essential social services, and to help prevent homelessness.



Since its inception and incorporation into the McKinney-Vento Act, the ESG program has helped States and localities provide facilities and services to meet the needs of homeless people. ESG funds assist in providing shelter for the homeless, but also aid in the transition of this population to permanent homes.

1.2 ESG Program Activities

Shelters and other service providers use Emergency Shelter Grants funding for five main categories of eligible activities:

Eligible ESG Activities

1. Renovation, rehabilitation, and conversion of buildings for use as emergency shelters or transitional housing for the homeless;
2. Essential services;
3. Operating costs such as maintenance, insurance, rent, etc.;
4. Homeless prevention; and
5. Administration.

1.3 ESG and the Continuum of Care

The ESG program is designed as the *first step* in a continuum of assistance to prevent homelessness and to enable the homeless population to move steadily toward independent living. The Continuum of Care model is based on the understanding that homelessness is not caused by simply a lack of shelter, but involves a variety of underlying needs. HUD believes the best approach for alleviating homelessness is through a community-based process that provides a comprehensive response to the diverse needs of homeless persons. The fundamental components of a Continuum of Care system are:

- Outreach and assessment to identify a homeless person's needs;
- Immediate (emergency) shelter as a safe, decent alternative to the streets;
- Transitional housing with appropriate supportive services to help people reach independent living; and
- Permanent housing or permanent supportive housing for the disabled homeless.

1.4 How is ESG Funding Allocated?

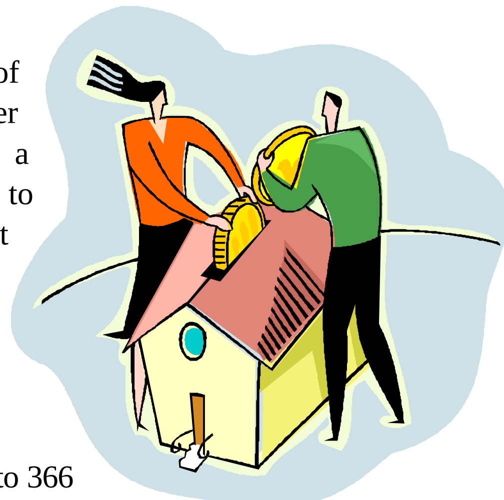
The Emergency Shelter Grants program is a formula-funded program that uses the Community Development Block Grant (CBDG) formula as the basis for allocating funds to eligible jurisdictions, including States, territories, and qualified metropolitan cities and urban counties.

To receive funds from the Emergency Shelter Grants program (and other formula-funded programs), the lead agency of an eligible jurisdiction must submit and obtain approval of a *Consolidated Plan*. This 3- to 5-year Plan provides the framework for a process used by States and local areas to identify housing, homeless, community and economic development needs and resources and to develop a strategic plan to meet those needs. During this planning process, citizens have an opportunity to provide input and to help shape the community's priorities.

The ESG grantee is the direct recipient of the HUD award. A grantee administers projects through sub-grantees, called "recipients". A local government grantee also may implement projects itself.

State ESG grantees are required to distribute their entire grant for projects operated by local government agencies or private non-profit organizations (if the local government in which the project is located certifies approval). Local governments receiving funds may distribute all or a portion of their ESG funds to nonprofit homeless provider organizations.

Section Two:
Allocation of Funding



This section explores various aspects of funding allocation in the Emergency Shelter Grants program. The ESG program is a formula grant program that allocates monies to eligible jurisdictions. The formula grant mechanism of the ESG program gives grantees the authority to allot ESG funds among their public and private recipients for eligible activities.

For FY 2001, HUD allocated $149.67 million to 366 eligible grantees in the ESG program. The minimum ESG grant in FY 2001 was $75,000, and the maximum grant was $7,792,000. For more information on the Community Planning and Development (CPD) Program formula allocations, please see http://www.hud.gov/cpd/cpdalloc.html. The current level of funding is based on the yearly homeless assistance appropriation, as well as the demand of HUD's other McKinney-Vento Act programs.

There are a number of steps that each eligible jurisdiction must go through in order to secure and use ESG funding:

ESG Program Funding Cycle

Step	Activity
Step 1	HUD notifies eligible jurisdictions of funding availability.
Step 2	Eligible jurisdictions prepare Consolidated Plan.
Step 3	Consolidated Plan is approved.
Step 4	Grant agreement is executed between HUD and the grantee (eligible jurisdiction).
Step 5	If applicable, grantee further allocates funding to local units of government and/or nonprofit organizations.
Step 6	Grantee executes grant agreement with each recipient of ESG funding.

Step 7	Recipient requests ESG funding from grantee (usually for costs already incurred).
Step 8	Grantee draws down ESG funds and reimburses recipient.

The following questions will be addressed in the remainder of this section:

- What is the formula funding mechanism?
- What entities are eligible for an ESG award?
- How is the Consolidated Plan related to ESG funding?
- What is the required funding match, and how is it met?
- Who are the ultimate recipients of ESG funding?
- What are the respective roles of the ESG grantees and recipients?
- Why and how does reallocation of ESG funding occur?

2.1 What is the Formula Funding Mechanism?

The Emergency Shelter Grants program is a formula grant program that uses data from the Community Development Block Grants (CDBG) program as the basis for allocating funds to eligible jurisdictions. The CDBG formula uses several objective measures of community need: poverty, population, housing overcrowding, age of housing and growth lag.

Eligible entities for ESG include:

- **States**: meaning each of the 50 States, the Commonwealth of Puerto Rico, and the District of Columbia.
- **Territories**: the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.
- **Metropolitan cities**
- **Urban counties**

[N.B.: Since October 1, 1998, Indian Tribes are not eligible for ESG funds: they may carry out homeless assistance activities using the Native American Housing Block Grant.]

Definition of metropolitan city 42 United States Code (U.S.C.) 5302(a)

The term "metropolitan city" means (A) a city within a metropolitan area which is the central city of such area, as defined and used by the Office of Management and Budget, or (B) any other city, within a metropolitan area, which has a population of fifty thousand or more . . .

Definition of urban county 42 U.S.C. 5302(a)

The term "urban county" means any county within which— (i) is authorized under State law to undertake essential community development and housing assistance activities in its unincorporated areas, if any, which are not units of general local government; and (ii) either-- (I) has a population of 200,000 or more (excluding the population of metropolitan cities therein) and has a combined population of 100,000 or more (excluding the population of metropolitan cities therein) in such unincorporated areas and in its included units of general local government . . . …or (II) has a population in excess of 100,000, a population density of at least 5,000 persons per square mile, and contains within its boundaries no incorporated places as defined by the United States Bureau of the Census.

Territorial Set-Aside

Regulations require HUD to set aside 0.2 percent of the total ESG allocation to be given to the territories, with the remainder to be allocated to States, metropolitan cities, and urban counties.

Allocation of Grant Amounts 24 Code of Federal Regulations (CFR) 576.5

(a) *Territories.* HUD will set aside for allocation to the territories an amount equal to 0.2 percent of the total amount of each appropriation under this part in any fiscal year. HUD will allocate this set-aside amount to each territory based upon its proportionate share of the total population of all territories.

(b) *States, metropolitan cities, and urban counties.* HUD will allocate the amounts that remain after the set-aside to territories under paragraph (a) of this section, to States, metropolitan cities, and urban counties, as provided in 42 U.S.C. 11373.

CDBG Formula

The regulations also state that the percentage allocated to States, metropolitan cities, and urban counties will be equal to the percentage of the total amount available for Community Development Block Grant for the prior fiscal year. In other words, if a particular jurisdiction received one percent of the total CDBG allocation in FY 2000, then it would receive one percent of the total ESG allocation for FY 2001. As a result, each State and eligible city and county will have the same proportionate share of funding in the ESG program that it has in the CDBG program.

> Allocation and distribution of assistance 42 U.S.C. 11373
>
> (a) In General – The Secretary shall allocate assistance under this part to metropolitan cities, urban counties, and States (for distribution to local governments and private nonprofit organizations in the States), in a manner that ensures that the percentage of the total amount available under this part for any fiscal year that is allocated to any State, metropolitan city, or urban county is equal to the percentage of the total amount available for [CDBG]…for such prior fiscal year that is allocated to such State, metropolitan city, or urban county.

Minimum Grant

Where the ESG allocation to a metropolitan city or urban county is relatively small (i.e., less than 0.05 percent of the total funds), the amount is instead added to the allocation for the State in which the jurisdiction is located. Because the ESG program's national allocation amount ($150 million) is so much smaller than that of CDBG ($4.5 billion), the ESG allocation for many CDBG cities and counties is less than the 0.05 percent and is therefore added to the State's allocation.

> Minimum Allocation Requirement 42 U.S.C. 11373 (b)
>
> If, under the allocation provisions applicable under this part, any metropolitan city or urban county would receive a grant of less than 0.05 percent of the amounts appropriated to carry out this part for any fiscal year, such amount shall instead be reallocated to the State. . .

For example, the following table depicts a set of hypothetical preliminary and final ESG allocations for several metropolitan cities and urban counties in a particular state.

	Preliminary Allocation	Adjustment to Allocation	Final ESG Allocation
Lincoln County	$200,000	$0	$200,000
Lincoln Heights City	$100,000	$0	$100,000
Washington County	$60,000	-$60,000	$0
Washington Crossing City	$50,000	-$50,000	$0
State	$300,000	+$110,000	$410,000

As shown above, the preliminary allocations for Washington County and Washington Crossing City were less than 0.05 percent of the total ESG allocation ($150 million). Therefore, these amounts were instead added to the State's allocation.

2.2 The Consolidated Plan: Applying for ESG Funds

HUD will notify each ESG-eligible State, metropolitan city, urban county, and territory of the amount of its allocation. To receive ESG funds, a jurisdiction needs to submit its Consolidated Plan at least 45 days before the start of its program year (24 CFR 91.15(a)).

The Consolidated Plan serves as the application for ESG funds (as well as for three other formula-funded programs – CDBG, HOME, and HOPWA). The formula grant program statutes describe three basic goals against which HUD will evaluate the Consolidated Plan and the jurisdiction's performance under the plan. Each jurisdiction's Consolidated Plan must state how it will pursue these goals for all community development and housing programs. The goals are:

- decent housing;
- a suitable living environment; and
- expanded economic opportunities.

Federal regulations regarding the submission of a Consolidated Plan are as follows:

Application Requirements 24 CFR 576.31

(b) *States, territories, and formula cities and counties.* To receive emergency shelter grant amounts, a State, territory, or formula city or county must:

(1) Submit documentation required under this part, part 5 of this title, or any other applicable provisions of Federal law; and
(2) Submit and obtain approval of a consolidated plan that includes activities to be funded under this part. This consolidated plan serves as the jurisdiction's application for funding under this part.

The Consolidated Plan describes needs, resources, priorities and proposed activities to be undertaken to address the jurisdiction's homeless assistance needs. When applying for ESG program funds, the jurisdiction must describe the process and criteria for awarding its grant funds along with the proposed source and amount of matching funds.

The Consolidated Plan is designed to be a collaborative process that offers local jurisdictions the opportunity to shape the diverse housing and community development programs into effective, coordinated neighborhood and community development strategies. It also fosters strategic planning and citizen participation in a comprehensive context, and provides an opportunity to reduce duplication of effort at the local level.

A grant agreement between HUD and the grantee forms the basis of the ESG award. Funds will not be available for use until both parties sign the grant agreement.

Review and approval of applications 24 CFR 576.33

(b) Grant agreement. The grant will be made by means of a grant agreement executed by HUD and the grantee. HUD will not disburse funds before the grant agreement is fully executed.

2.3 The Funding Match

Metropolitan Cities/Urban Counties

Each local government grantee, other than a territory, must match dollar-for-dollar the ESG funding provided by HUD with funds from other public or private sources. A grantee may comply with this requirement by:

- providing matching funds itself, or
- through matching funds or voluntary efforts provided by any recipient or project sponsor.

Matching funds must be provided *after* the date of the grant award to the grantee. Funds used to match a previous ESG grant may not be used to match a subsequent grant award.

States

By law, the first $100,000 of any assistance provided to a State grantee is not required to be matched, but can be, at the State grantee's discretion. In other words, a State grantee awarded $500,000 is required to secure matching funds of $400,000. In some cases, ESG recipients contribute the required funding match. However, if a State grantee takes advantage of the $100,000 exemption, and the match requirement is met by the recipients, then the benefit of the unmatched amount must be shared with those recipients least capable of providing the matching funds. In other words, recipients for whom the match contribution would present the greatest hardship should be exempt from that requirement.

What Counts as Match?

Grantees/recipients may use any of the following in calculating the amount of matching funds provided:

- cash;
- the value or fair rental value of any donated material or building;
- the value of any lease on a building;
- any salary paid to staff to carry out the program of the recipient; and

- the value of the time and services contributed by volunteers to carry out the program of the recipient at a current rate of $5 per hour. [Note: Volunteers providing professional services such as medical or legal services are valued at the reasonable and customary rate in the community.]

Matching Amounts 42 U.S.C. 11375

(a) (1) Except as provided in paragraph (2), each recipient under this part shall be required to supplement the assistance provided under this part with an equal amount of funds from sources other than this part. Each recipient shall certify to the Secretary its compliance with this paragraph, and shall include with such certification a description of the sources and amounts of such supplemental funds.

(a) (2) Each recipient under this part that is a State shall be required to supplement the assistance provided under this part with an amount of funds from sources other than this part equal to the difference between the amount received under this part and $100,000. If the amount received by the State is $100,000 or less, the State may not be required to supplement the assistance provided under this part.

(a) (3) In calculating the amount of supplemental funds provided by a recipient under this part, a recipient may include the value of any donated material or building, the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary.

(c) (4) In the case of a recipient that is a State, it will obtain any matching amounts required under subsection (a) of this section in a manner so that local governments, agencies, and local nonprofit organizations receiving assistance from the grant that are least capable of providing the recipient State with such matching amounts receive the benefit of the $100,000 subtrahend under subsection (a)(2) of this section.

2.4 Who are the ESG Recipients?

Metropolitan Cities/Urban Counties

Metropolitan city and urban county “grantees” receive funding directly from HUD. Each grantee administers one or more ESG projects through making awards to what are called “recipients” in the ESG statute.

Recipients may be either private nonprofit organizations or the grantees' own government agencies.

> **Distributions to nonprofit organizations 42 U.S.C. 11373 (c)**
>
> Any local government receiving assistance under this part may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to homeless individuals. Any State receiving assistance under this part may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to homeless individuals, if the local government for the locality in which the project is located certifies that it approves of the project.

States

A State grantee, which for ESG includes Puerto Rico and the District of Columbia, receives funds directly from HUD. Its allocation, except for a portion of the administrative costs, *must* be made available to the following recipients:

- Local governments in the State (any city, county, town, township, parish, village, or other general purpose political subdivision of a state), which may include cities and counties that are ESG grantees; or
- Private nonprofit organizations (defined as tax-exempt secular or religious organizations described in section 501(c) of the Internal Revenue Code), if the local government where the project is located certifies its approval of the project.

While local government grantees can fund ESG projects operated by their own government agencies, State grantees are prohibited from funding projects operated by the agencies of the State government.

2.5 Allocation of Funding to Recipients

HUD allows ESG grantees the flexibility to determine how best to apportion funds to recipients. Many grantees undertake a competitive process that begins with a Request for Proposal (RFP). Proposals are reviewed and assessed against desired program criteria, and awards are made to individual organizations or units of local government. Other grantees may offer repeat funding directly to organizations or agencies that have demonstrated success with ongoing homeless assistance programs funded by the ESG program in the previous year. Still another group of grantees may elect to alternate funding each year among several agencies with ongoing homeless assistance programs.

Grantees that allocate ESG funds to recipients through a formal RFP process often do so because of existing State or local requirements. This competitive process may include the review of proposals and recommendations for funding by a diverse group of stakeholders. This group could include:

- Grantee staff;
- Other State and/or local government representatives;
- Continuum of Care groups;
- Homeless service providers;
- Other service providers;
- Community members.

In addition to allocating ESG funds among eligible activities and among local providers, grantee agencies also play an important role in the planning and coordination of resources and programs addressing the problem of homelessness.

Promising Practice: Funding of Recipients

ESG grantees allocate funding to recipients who carry out the day-to-day activities in support of homeless persons. An essential step in this process is to identify those agencies or nonprofit organizations that can best achieve ESG program goals. An ESG grantee in Missouri utilizes a RFP and comprehensive review process to award funding to local homeless service providers. The application review team consists of grantee staff, non-profit social service agency representatives, and a formerly homeless person. Each application is assessed on the basis of completeness, program mission vs. agency mission, capacity of the organization to implement the program, prior performance (if applicable), the agency's involvement in the Homeless Services Coalition (a 60-member provider network that steers the city's Continuum of Care) and priority of need. Reviewers assign points for each element that an application successfully meets, and overall scores are used to make funding decisions. For example, in assessing overall *capacity*, a reviewer may award points if, among other things:

- operating costs are partially supplemented by other funds;
- the agency demonstrates partnerships within the community; and
- the proposed staffing level is consistent with the proposed level of service.

This thorough evaluation of applications helps to ensure that the recipients selected for ESG funding have the maximum potential for success in addressing the community's homeless assistance needs.

2.6 Grantee-Recipient Agreements

The grantee signs separate grant agreements with each recipient of ESG funding. HUD does not prescribe the specific content of these contracts or agreements. In general, these agreements define:

- key program components or activities (including benchmarks for success);
- the level of ESG funding;
- the anticipated source and amount of matching funds contributed by the agency/organization; and
- documentation or reporting requirements.

Many grantees find it useful to include along with the grant agreement a copy of the ESG program regulations (24 CFR Part 576). This is a valuable source of regulatory information available to recipients of ESG funding.

The recipients of ESG funding implement, deliver, and document the day-to-day services to the homeless participants as per the terms of their grant agreements. ESG recipients make requests to the grantee for program funds to meet project costs – usually on a cost-reimbursement basis – and submit performance reports, payment vouchers, and any waiver requests. It is the responsibility of the ESG grantee to process fund requests in a timely way. The grantee has the contractual responsibility for ensuring that the stated goals and objectives for each of their recipients' projects are successfully carried out and documented according to the applicable federal regulations. This contractual responsibility encompasses oversight on each of the recipients that includes compliance with the grant agreement, regulations, sound financial record keeping, reporting, etc.

2.7 Reallocation of Funding

Occasionally, emergency shelter grant amounts are returned or unused, and HUD reallocates these funds.

- ESG amounts are considered "returned" when a jurisdiction does not apply for or execute a grant agreement with HUD.
- ESG amounts are considered "unused" *after* a grantee has executed a grant agreement with HUD and those funds are not spent for an eligible ESG activity or are not spent in a timely manner.

Reallocation of Unused Grant Funds

Unused ESG amounts are added to the next fiscal year's total allocation, and disbursed according to the general allocation guidelines for the ESG program (not as a "reallocation").

Reallocation – Unused Grant Amounts 24 CFR 576.45 (d)

Unused grant amounts will be added to the appropriation for the fiscal year immediately following the fiscal year in which the amounts become available to HUD for reallocation in accordance with the provisions of CFR 576.5 of this part.

Reallocation of Returned Grant Funds

HUD endeavors to keep the allocated ESG funds as close as possible to the local area, State, or territory initially awarded the grant. This is accomplished through a clear order of priorities for reallocation. For example, *returned* grant amounts that were allocated to a formula city or county will be made available first for use in the city or county, to authorized local governments; then to the State in which the city or county is located; and so on. Likewise, returned grant amounts that were allocated to a territory will be made available, first, to other territories and, if grant amounts remain, then to States.

The regulations governing the use of returned ESG funds may be found at 24 CFR 576.45(c). They are as follows:

Reallocation – Returned Grant Amounts 24 CFR 576.45 (c)

(1) *States and formula cities and counties.* HUD will endeavor to reallocate returned emergency shelter grant amounts that were initially allocated under CFR 576.5 to a State or a formula city or county, for use within the same jurisdiction. Reallocation of these grant amounts is subject to the following requirements:

- (i) Returned grant amounts that were allocated to a State will be made available:
  - (A) first, to units of general local government within the State, and
  - (B) if grant amounts remain, then to other States.

- (ii) Returned grant amounts that were allocated to a formula city or county will be made available:
  - (A) First for use in the city or county, to authorized units of general local government that are authorized under applicable law to carry out activities serving the homeless in the jurisdiction;
  - (B) If grant amounts remain, then to the State in which the city or county is located;
  - (C) If grant amounts remain, to units of general local government in the State; and
  - (D) If grant amounts remain, to other States.

In order to receive reallocation amounts, the jurisdiction must do two things:

- execute a grant agreement with HUD for the fiscal year for which the funding was initially made available; and
- submit any necessary amendments to the original application (Consolidated Plan) for the fiscal year for which the funding was initially made available.

Section Three:
Eligible Activities under the ESG Program

As described in Section One of this Guide, the ESG program aims to supplement State, local, and private efforts to improve the quality and number of emergency shelters and transitional facilities for homeless people. More specifically, States and local governments use ESG funds to help operate these facilities, to provide essential support services to residents, and to help prevent at-risk families or individuals from becoming homeless.

Designed as a *first step* in a continuum of care plan of assistance, the ESG program strives to address the immediate needs of persons residing on the street and needing emergency shelter and transitional housing, as well as assisting their movement to independent living.

ESG serves a variety of homeless persons and families, with no restrictions or further targeting. Any targeting of ESG funds results from local service and shelter providers design of programs to address the specific needs of various homeless subpopulations, such as victims of domestic violence, youth, mentally ill, veterans, families with children, or others. A portion of ESG funds may be used to serve persons at imminent risk of losing their permanent housing and becoming homeless.

While flexible in terms of serving all homeless subpopulations and preventing persons from becoming homeless, the ESG program legislation and implementing regulations do limit the types of activities and amounts of funds that can be spent on different activities. The following five major categories of eligible activities and applicable limitations are discussed in this section of the Guide:

- Rehabilitation
- Essential Services
- Operational Costs
- Homeless Prevention Activities
- Administrative Costs

3.1 Emergency Shelter Renovation, Rehabilitation or Conversion

The quality and quantity of emergency shelters and transitional housing may be increased with ESG funds through conversion or major rehabilitation or renovation of existing buildings.

Legislation and Regulation

The legislation mentions three types of shelter improvement activities.

> **Eligible Activities 42 U.S.C. 11374**
>
> (a) In General. Assistance provided under this subtitle may be used for the following activities relating to emergency shelter for homeless individuals:
>
> (1) the renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters.

Definitions

The regulation differentiates the three types of improvements and bases continued use restrictions for the shelter on the level of improvement.

Renovation, Rehabilitation and Conversion 24 CFR 576.3

Conversion means a change in the use of building to an emergency shelter for the homeless under this part, where the cost of conversion and any rehabilitation costs exceed 75 percent of the value of the building after conversion.

Major rehabilitation means rehabilitation that involves costs in excess of 75 percent of the value of the building before rehabilitation.

Renovation means rehabilitation that involves costs of 75 percent or less of the value of the building before rehabilitation.

Value of the building means the monetary value assigned to a building by an independent real estate appraiser, or as otherwise reasonably established by the grantee or the State recipient.

Use Restrictions on Renovation, Major Rehabilitation, and Conversion

The statute and regulation require certain continued use standards for shelters receiving ESG funds for improvement based upon the amount of the improvement.

Certifications on Use of Assistance 42 U.S.C. 11375 (c)

Each recipient shall certify to the Secretary that

(1) it will –

  (a) in the case of assistance involving major rehabilitation or conversion, maintain any building for which assistance is used under this part as a shelter for homeless individuals and families for not less than a 10-year period; or

  (b) in the case of assistance involving rehabilitation (other than major rehabilitation or conversion), maintain any building for which assistance is used under this part as a shelter for homeless individuals and families for not less than a 3-year period;

(2) any renovation carried out with assistance under this subtitle shall be sufficient to ensure that the building involved is safe and sanitary.

- Major rehabilitation and conversion are defined as the costs of improvement that are *more than 75 percent* of the value of the building before rehabilitation. A shelter receiving this level of improvement must be used as a shelter for at least *10 years*.
- Renovation is defined as the costs of improvements that are *less than 75 percent* of the value of the building before rehabilitation. A shelter receiving this level of improvement must be used as a shelter for at least *3 years*.

Timing of Three or Ten Year Use Requirement

The regulation specifies the dates for determining when the 3- and 10-year use requirements begin.

> Use as an Emergency Shelter 24 CFR 576.63
>
> (b) Calculating the applicable period. The 3- and 10-year periods applicable under paragraph (a) of this section begin to run:
>
> (1) In the case of a building that was not operated as an emergency shelter for the homeless before receipt of grant amounts under this part, on the date of initial occupancy as an emergency shelter for the homeless.
>
> (2) In the case of a building that was operated as an emergency shelter before receipt of grant amounts under this part, on the date that grant amounts are first obligated for the shelter.

Thus, for either the 3- or 10-year period of use, the use requirement starts on the *date of initial occupancy* for a building that had not previously been operated as a shelter. The *date the ESG funds are obligated to a shelter* starts the applicable use requirement where the building was previously operated as a shelter.

Ineligible Activities

Ineligible **rehabilitation** or **renovation** costs include:

- Acquisition of real property
- New construction
- Property clearance or demolition

- Rehabilitation administration
- Staff training or fund raising activities associated with rehabilitation
- Building maintenance and repairs (See Operations)

[Please note that acquisition and new construction **are not** eligible ESG-funded activities, and Davis-Bacon requirements **do not apply** to ESG-funded renovation, major rehabilitation or conversion activities.]

Lead-Based Paint Requirements

The application of lead-based paint regulations to facilities receiving ESG funds is discussed in detail in Section Eight.

3.2 Essential Services

ESG funds can be used to provide essential services to address the needs of homeless persons living on the street, in emergency shelter or in transitional housing. Essential services can address the immediate needs of the homeless, and can help enable homeless persons become more independent and to secure permanent housing.

Legislation and Regulation

The legislation describes several types of essential service activities:

> Eligible Activities 42 U.S.C. 11374
>
> (a) In General. Assistance provided under this subtitle may be used for the following activities relating to emergency shelter for homeless individuals:
>
> (2) The provision of essential services, including services concerned with employment, health, drug abuse or education.

The law specifies a broad array of services available to serve homeless persons who are residing in emergency and transitional shelters. In addition, essential services for homeless persons may be funded in day shelters or soup kitchens that are designed to serve predominantly homeless persons. Finally, services provided by shelters or day shelters that address the needs of persons residing on the street may be funded by ESG.

Definitions

> **Essential Services 24 CFR 576.3**
>
> *Essential services* includes services concerned with employment, health, drug abuse, and education and may include (but are not limited to):
>
> (1) Assistance in obtaining permanent housing;
> (2) Medical and psychological counseling and supervision;
> (3) Employment counseling;
> (4) Nutritional counseling;
> (5) Substance abuse treatment and counseling;
> (6) Assistance in obtaining other Federal, State and local assistance including mental health benefits; employment counseling; medical assistance; Veteran's benefits; and income support assistance such as supplemental Security Income benefits, Aid to Families with Dependent Children, General Assistance, and Food Stamps;
> (7) Other services such as child care, transportation, job placement and job training; and
> (8) Staff salaries necessary to provide the above services.

Limitations on Funding Essential Services

The legislation and the regulations both limit the amount of ESG funds that may be spent on essential services (30 percent subject to waiver) and restrict funding to new services or a quantifiable increase in services above the level previously funded.

Eligible Activities 42 U.S.C. 11374 (a) (2)

(2) The provision of essential services, including services concerned with employment, health, drug abuse, or education, if –
  - (A) such services have not been provided by the local government during any part of the immediately preceding 12-month period; or the use of assistance under this subtitle would complement those services; and
  - (B) not more than 30 percent of the aggregate amount of all assistance to a State or local government under this subtitle is used for activities under this paragraph.

Limitation on provision of essential services 24 CFR 576.21 (b)

(1) Grant amounts provided by HUD to units of general local government, or territories and grant amounts provided by a State to State recipients, may be used to provide an essential service….only if the service is a new service, or is a quantifiable increase in the level of a service above that which the unit of general local government (or, in the case of a nonprofit organization, the unit of general local government in which the proposed activities are to be located), or territory as applicable, provided with local funds during the 12 calendar months immediately before the grantee or State recipient received initial grant amounts.

(2) Limits on the use of assistance for essential services…are applicable even when the unit of local government, or territory provides some or all of its grant funds to a nonprofit recipient. This limitation may be waived in accordance with 42 U.S.C. 11374.

New Service or Quantifiable Increase in Service

ESG funds can be used by grantees or their recipients for a *new service* or a *quantifiable increase in the level of service* above that provided during the immediately previous 12-month period. This provision in the legislation prohibits using ESG funds to replace existing government or non-profit funding of services. However, once a new or increased level of service meets the above standards, then ESG funds may be used to continue funding that service in subsequent years. Examples of essential services meeting these standards are:

- A city grantee funded a recipient organization for outreach to the Hispanic homeless population in the community. Funds were used to support Spanish-speaking service staff, and translation of written materials into Spanish. This was a *new* service as this population had not been directly provided these services before and no other organization was providing these services at the time.

- A city grantee funded a local food rescue/soup kitchen organization to purchase an additional vehicle to be used to transport rescued foods from restaurants to area shelters and feeding programs. This activity represented a *quantifiable increase* in the level of service as it increased the organizations' transport fleet by one additional vehicle and allowed for a substantial increase in the number of organizations served by the program. In this case, no other area organization was providing this service.

- A city grantee funded a new staff position to provide housing search services for transitional shelter residents. The services provided by this new position were *new*, and enhanced (or increased) the ability of local shelters to assist residents to move from temporary shelter to permanent housing.

The examples provided above are in no way exhaustive, but simply provide three illustrations of how ESG funding was used in the essential services category. As is demonstrated, salaries for supportive services provider staff are an eligible cost under this category.

Essential Services 30 Percent Limitation

Grantees may use only thirty (30) percent of the entire ESG grant for essential services. For example, a jurisdiction receiving a $200,000 ESG grant may only use $60,000 (or 30 percent) for essential services. The 30 percent limitation applies to the grant as a whole. Thus, individual recipients of ESG funds for essential services are each not limited to 30 percent of their grant, just as long as the overall 30 percent limit is not exceeded.

Waiver of Statutory 30 Percent Essential Services Limitation

The legislation provides for a waiver of the statutory 30 percent limitation.

Waiver Authority 42 U.S.C. 11374 (b)

The Secretary may waive the 30 percent limitation on the use of assistance for essential services contained in subsection (a)(2)(B) of this section, if the local government receiving the assistance demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources.

The jurisdiction requesting a waiver of the 30 percent limitation must document to the satisfaction of HUD that other ESG-eligible activities (renovation, major rehabilitation, conversion, operational costs, and homeless prevention) are being carried out in the locality with other resources or there is no demand for those activities.

Ineligible Activities

Ineligible **essential services** costs include:

- Existing services and staff (services must be new or provided to more persons)
- Salary of case management supervisor when not working directly on participant issues
- Advocacy, planning, and organizational capacity building
- Staff recruitment/training
- Transportation costs not directly associated with service delivery

3.3 Operational Costs

ESG funds can cover a broad array of emergency shelter and transitional housing operating costs.

Legislation and Regulations

The legislation and regulations specify various eligible operating costs related to the provision of emergency and transitional housing.

Eligible Activities 42 U.S.C. 11374 (a)

(3) Maintenance, operation, insurance, utilities and furnishings, except that not more than 10 percent of the amount of any grant received under this subtitle may be used for costs of staff.

Definitions 42 U.S.C. 11371

(4) The term "operating costs" means expenses incurred by a recipient operating a facility assisted under this subtitle with respect to –

(A) the administration, maintenance, repair, and security of such housing; and

(B) utilities, fuels, furnishings, and equipment for such housing.

Eligible Activities 24 CFR 576.21 (a) (3)

(3) Payment for shelter maintenance, operation, rent, repairs, security, fuel, equipment, insurance, utilities, food and furnishings. Not more than 10 percent of the grant amount may be used for costs of staff.

Limitations on Funding Operational Costs

Staff salaries (including fringe benefits) paid under the operating costs category are limited to 10 percent of the grant. Maintenance and security salary costs are not subject to the 10 percent standard. For example, a grantee receiving a $75,000 ESG grant would be able to pay only $7,500 (or 10 percent of that amount) for operational staff costs.

Ineligible Activities

Ineligible **operating** or **maintenance** costs include:

- Recruitment or on-going training of staff
- Depreciation
- Costs associated with the organization rather than the supportive housing project (advertisements, pamphlets about organization, surveys, etc.)
- Staff training, entertainment, conferences, or retreats
- Public relations or fund raising
- Bad debts/late fees
- Mortgage payments

3.4 Homeless Prevention Activities

The legislation and the regulations specify a broad array of financial assistance and supportive services that may be provided to help prevent persons from becoming homeless.

Legislation and Regulation

Eligible Activities 42 U.S.C. 11374 (a)

(4) Efforts to prevent homelessness such as financial assistance to families who have received eviction notices or notices of termination of utility services if –

(A) the inability of the family to make the required payments is due to a sudden reduction in income;
(B) the assistance is necessary to avoid the eviction or termination of services;
(C) there is a reasonable prospect that the family will be able to resume payments within a reasonable period of time; and
(D) the assistance will not supplant funding for preexisting homelessness prevention activities from other sources.

Not more than 30 percent of the aggregate amount of all assistance to a State or local government under this subtitle may be used for activities under this paragraph.

Definitions 24 CFR 576.3

Homeless prevention means activities or programs designed to prevent the incidence of homelessness, including (but not limited to):

(1) Short-term subsidies to defray rent and utility arrearages for families that have received eviction or utility termination notices;
(2) Security deposits or first month's rent to permit a homeless family to move into its own apartment;
(3) Mediation programs for landlord-tenant disputes;
(4) Legal services programs for the representation of indigent tenants in eviction proceedings;
(5) Payments to prevent foreclosure on a home; and
(6) Other innovative programs and activities designed to prevent the incidence of homelessness.

Eligible Activities 24 CFR 576.21 (a) (4)

Developing and implementing homeless prevention activities, subject to the limitations in 42 U.S.C. 11374(a)(4) and paragraph (c) of this section. Grant funds may be used under this paragraph to assist families that have received eviction notices or notices of termination of utility services only if the conditions stated in 42 U.S.C. 11374(a)(4) are met.

Limitations on Funding Homeless Prevention Activities

The grantee may not use more than thirty (30) percent of their grant amount for homeless prevention activities. The statutory limitation is not waivable. The limitation is based on the overall grant to the jurisdiction. An individual recipient's homeless prevention activities are not limited, as long as the total of all recipients' homeless prevention activities does not exceed the 30 percent standard.

Prevention Limitations 24 CFR 576.21

(c) Limitation on homeless prevention activities. Limits on the use of assistance for homeless prevention activities established in 42 U.S.C. 11374(a)(4) are applicable even when the unit of local government or territory provides some or all of its grant funds to a nonprofit recipient.

Ineligible Activities

Ineligible **homeless prevention** costs include:

- Housing/services to homeless persons
- Direct payments to individuals
- Long-term assistance beyond several months
- Application for Federal Funds or Unprogrammed Funds

3.5 Administrative Costs

The legislation and regulations provide that up to five (5) percent of a grantee's funds may be spent for administering the grant.

Legislation and Regulation

> Administrative Costs 42 U.S.C. 11378
>
> A recipient may use up to 5 percent of any annual grant received under this part for administrative purposes. A recipient State shall share the amount available for administrative purposes pursuant to the preceding sentence with local governments funded by the State.

> Eligible Activities 24 CFR 576.21 (a) (5)
>
> (5) Administrative costs in accordance with 42 U.S.C. 11378.

Eligible administrative costs include staff to operate the program, preparation of progress reports, audits, and monitoring of recipients.

Sharing of Administrative Funds

The legislation directs that a State share its administrative funds with local governments who receive grants from the State.

Ineligible Activities

Ineligible **administrative** costs include:

- Preparation of Consolidated Plan and other application submissions
- Conferences or training in professional fields such as accounting and financial management
- Salary of organization's executive director (except to the extent involved in carrying out eligible administrative functions)

3.6 Summary of Eligible ESG-Funded Activities and Limits on Use

Eligible Activity	*Limitation/Restriction on Use*
Renovation, Major Rehabilitation and Conversion	Renovation: Continue use as shelter for 3 years Major Rehab/Conversion: Continue use as a shelter for 10 years
Essential Services	Up to 30% of ESG funding
Operational Costs	Staff costs included in this category up to 10% of ESG funding
Homeless Prevention Activities	Up to 30% of ESG funding
Administrative Costs	Up to 5% of ESG funding

While the ESG federal regulation at 24 CFR 576.21 does not list *all* of the possible eligible activity costs under the program, there is a statutory requirement that ESG funds must benefit either homeless persons, or persons at imminent risk of becoming homeless in the case of homeless prevention activities. An additional requirement exists that costs be provided at a reasonable price and be directly related to an ESG eligible expenditure category.

In addition, grantees and recipients should use ESG funds as originally planned in the Consolidated Plan. If it is necessary to make a change in planned activities, then the grantee should notify the HUD Field Office staff of the change. Based on the magnitude of the proposed changes, grantees may also need to amend their Consolidated Plan, alter their project or activities in IDIS, and modify any inaccurate report.

Section Four:
Program Requirements and Responsibilities

This section describes the basic program requirements and responsibilities under the ESG program for both ESG grantees and recipients. These include:

- Program Deadlines;
- Record Keeping;
- Standards For Documentation Of Homelessness;
- Termination Of Participation;
- Participation Of Homeless Persons In Policy Making;
- Ensuring Confidentiality;
- Basic Habitability Standards; and
- Sanctions for Noncompliance

4.1 Deadlines for Obligation and Expenditure of Funds

The ESG program has a number of requirements around the timing for obligation and use of funds. These deadlines vary between grantee and recipient.

State Grantees and State Recipients

Availability and Obligation of Funds:

- State *grantees* need to make all of their ESG funds available to local government or nonprofit recipients within **65 days** of grant award, and the *recipients* have **180 days** to obligate those funds. In order to make critically needed State homeless prevention funds available as soon as possible, States may continue to make available homeless prevention funds within **180 days** of grant award and their recipients need to obligate these funds within **30 days** and still spend them within the required **24 months** (two years).

Expenditure of Funds:

- State recipients must spend all of their grant amounts within **24 months** (two years) of the date on which the State made the ESG funds available to the State recipient.

Cities, Counties and Territories

- Formula cities, counties, or territories are required to obligate all ESG amounts within **180 days** of the date of the grant award made by HUD, and must expend all of the grant amounts within **24 months** of the date of the grant award.

4.2 Failure to Meet Deadlines

Any funds that are not made available or obligated within the timeframes described above will be *reallocated*. Reallocation is a process through which ESG funds are re-captured and then allocated again to other grantees and/or recipients. This process is more fully described in Section Two.

The Federal regulation at 24 CFR 576.35 describes deadlines as follows:

Deadlines for using grant amounts 24 CFR 576.35

(a) States.

(1) Each State must make available to its State recipients all emergency shelter grant amounts that it was allocated under 576.5 within 65 days of the date of the grant award by HUD. Funds set aside by a State for homeless prevention activities under 576.21(a)(4) must be made available to State recipients within 180 days of the grant award by HUD.

(2) State recipients.

(i) Obligation of grant funds. Each State recipient must have its grant amounts obligated (as that term is defined at 576.3) within 180 days of the date on which the State made the grant amounts available to the State recipient. In the case of grants for homeless prevention activities under 576.21(a)(4), State recipients are required to obligate grant amounts within 30 days of the date on which the State made the grant amounts available to the State recipient.

(ii) Expenditure of grant funds. Each State recipient must spend all of its grant amounts within 24 months of the date on which the State made the grant amounts available to the State recipient. In the case of grants for homeless prevention activities, State recipients must spend such sums within 180 days of the date on which the State made the grant amounts available to the recipient.

(b) Formula cities and counties, and Territories.

(1) Obligations of funds. Each formula city and county, and each Territory, must have all grant amounts that it was allocated under 576.43 or 576.45 obligated within 180 days of the date of the grant award by HUD.

(2) Formula cities and counties, territories and Expenditure of grant funds. Each formula city or county, and territory, must spend all of the grant amounts it was allocated or awarded under 576.5 or 576.31 within 24 months of the date of the grant award by HUD.

(c) Failure to meet deadlines.

(1) Any emergency shelter grant amounts that are not made available or obligated within the applicable time periods specified in paragraphs (a)(1) or (b) of this section will be reallocated under 576.45.

(2) The State must recapture any grant amounts that a State recipient does not obligate and spend within the time periods specified in paragraph (a)(2) of this section. The State, at its option, must make these amounts and other amounts returned to the State (except amounts referred to in 576.22(b)(6) available as soon as practicable to other units of general local government for use within the time period specified in paragraph (a)(2) of this section or to HUD for reallocation under 576.45.

4.3 Keeping Accurate Financial and Service Delivery Records

Maintaining accurate records is an important aspect of quality management of ESG projects. As is discussed in more detail in Section Six, measurement of project performance relies on the tracking of information about services and activities. It is important, therefore, that full and precise information about program activities and services provided with ESG funds is gathered and maintained. **Grantees** should require consistent reporting by recipient organizations, not only on expenditure of funds, but also on program activities and measurable outcomes. In order to report fully on program outcomes and activities, **recipients** should consistently gather demographic information on the population being served by the program and the types of activities being provided to participants.

ESG regulations require that records are maintained for a period of at least four years after the end of the grant term.

4.4 Documentation of Homelessness

Documentation of participants' homelessness situation is an equally important aspect of ESG project management. ESG recipients are required to maintain adequate documentation of homelessness status to determine the eligibility of persons served by HUD's homeless assistance programs. The documentation is typically obtained from the participant or a third party at the time of referral, entry, intake or orientation to the ESG-funded project. A copy of the documentation should be maintained in the client file.

How is Homelessness Defined?

HUD defines homelessness using the following definition: A homeless person is someone who is living on the street or in an emergency shelter, or who would be living on the street or in an emergency shelter without HUD's homelessness assistance. A person is considered homeless only when he/she resides in one of the places described below:

- In places not meant for human habitation, such as cars, parks, sidewalks, abandoned buildings, on the street;
- In an emergency shelter;

- In transitional or supportive housing for homeless persons who *originally* came from the streets or emergency shelters;
- In any of the above places but is spending a short time (up to 30 consecutive days) in a hospital or other institution;
- Is being evicted within a week from a private dwelling unit ***and*** no subsequent residence has been identified ***and*** the person lacks the resources and support networks needed to obtain housing ***or*** their housing has been condemned by housing officials and is no longer considered meant for human habitation;
- Is being discharged within a week from an institution in which the person has been a resident for more than 30 consecutive days and no subsequent residence has been identified ***and*** the person lacks the resources and support networks needed to obtain housing; or
- Is fleeing a domestic violence housing situation and no subsequent residence has been identified ***and*** the person lacks the resources and support networks needed to obtain housing.

Documentation for Homeless Prevention Activities

For homeless prevention activities, the recipient organization must obtain evidence of an eviction, foreclosure, or utility termination notice(s) and evidence that the inability to pay was sudden, necessary to prevent homelessness, and resumption of payment is reasonably expected within the near future. Evidence would include, for example, notice of termination from the utility provider, court documents indicating that eviction was imminent or foreclosure documents indicating that foreclosure proceedings were pending. "Sudden" loss of income means, for example, the loss of a job, or the inability to work due to illness.

Homelessness Documentation

As described above, HUD encourages that ESG-funded recipients maintain adequate documentation to determine the eligibility of persons served by HUD's homeless assistance programs. Below, this Guide provides recommendations on documentation of homelessness.

The degree of documentation of homelessness depends on the type of short- or long-term shelter provided. Projects providing short-term emergency shelter or support services only need a lower standard of proof of the person's prior living situation.

Short-Term Emergency Shelter/Services

Situation	Documentation
Persons living on the street	Projects may provide short-term shelter and/or services – such as outreach, food health care, and clothing – to persons who reside on the streets or who are otherwise homeless. In these cases, it is not feasible to require documentation for each person obtaining such services offered by the project. It is sufficient for the grantee/recipient staff to confirm that the persons served, indeed, reside on the street or are otherwise homeless.

Long-Term Emergency Shelter/Transitional Housing

Situation	Documentation
Persons living on the street or in short-term emergency shelter	Information should be obtained to indicate that the participant is living on the street or in short-term emergency shelter. This may include names of organizations or outreach workers who have assisted them in the past, whether the client receives any general assistance checks and where the checks are delivered, or any other information regarding the participant's activities in the recent past that might provide documentation. If unable to verify that the person is living on the street or in short-term emergency shelter, the participant or a staff person may prepare a short written statement about the participant's previous living place. The participant should sign the statement and date it.
Persons coming from transitional housing for homeless persons	Obtain written verification from the transitional housing staff that the participant has been residing at the transitional housing facility. The verification should be signed and dated by the referring agency personnel. Also obtain written verification that the participant was living on the streets or in an emergency shelter prior to living in the transitional housing facility (see above for required documentation for emergency shelter), or was discharged from an institution or evicted from a private dwelling prior to living in the transitional housing and would have been homeless if not for the transitional housing (see below for required documentation for eviction from a private dwelling).

Situation	Documentation
Persons being evicted from a private dwelling	Obtain evidence of formal eviction notice indicating that the participant was being evicted within a week before receiving homeless assistance. Also obtain information on the participant's income and efforts made to obtain housing and why, without the homeless assistance, the participant would be living on the street or in an emergency shelter. If the participant's family is evicting, a statement describing the reason for eviction must be signed by the family member and dated. In other cases where there is no formal eviction process, persons are considered evicted when they are forced out of the dwelling unit by circumstances beyond their control. In those instances, obtain a signed and dated statement from the participant describing the situation. The grantee/recipient must make efforts to confirm that these circumstances are true and have written verification describing the efforts and attesting to their validity. The verification should be signed and dated.
Persons from a short-term stay (up to 30 consecutive days) in an institution who previously resided on the street or in an emergency shelter	Obtain written verification from the institution's staff that the participant has been residing in the institution for less than 31 days and information on the previous living situation. See above for guidance.
Persons being discharged from a longer stay in an institution	Obtain evidence from the institution's staff that the participant was being discharged within the week before receiving homeless assistance. Obtain information on the income of the participant, what efforts were made to obtain housing and why, without the homeless assistance, the participant would be living on the street or in an emergency shelter.
Persons fleeing domestic violence	Obtain written verification from the participant that he/she is fleeing a domestic violence situation. If a participant is unable to prepare verification, the grantee/recipient may prepare a written statement about the participant's previous living situation for the participant to sign and date.

4.5 Termination of Participation and Grievance Procedure

Grantees and recipients in the ESG program may terminate assistance provided by ESG-funded activities to participants who violate program requirements. The termination, however, must allow for the due process of the terminated participant's rights.

Recipients must have in place a procedure that governs the termination and grievance process. These procedures should describe the program requirements and the termination process, as well as the grievance procedure that might, for example, allow participants to request a hearing regarding the termination of their assistance.

It is important that recipient organizations effectively communicate the termination and grievance procedures to participants and ensure that the procedures are fully understood. For example, the recipient organization staff might verbally explain the procedures to participants upon entry, intake, or orientation to the ESG-funded program and make the procedures readily available to participants either with written information or by posting the policy in a public place. Posting the policy on a bulletin board in a common area within the facility is an effective way to ensure that the procedures are available for participants to access at any time.

The federal regulation at 24 CFR 576.56 (a) (3) describes the termination provision:

Termination of Assistance 24 CFR 576.56 (a) (3)

Grantees and recipients may, in accordance with 42 U.S.C. 11375 (e), terminate assistance provided under this part to an individual or family who violates program requirements.

The federal statute details termination of assistance:

> Termination of Assistance 42 U.S.C 11375 (e)
>
> If an individual or family who receives assistance under this part from a recipient violates program requirements, the recipient may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals affected, which may include a hearing.

4.6 Participation of Homeless Persons in Policy-making and Operations

In order to involve homeless or formerly homeless persons more readily with the organizations that provide them services, the ESG program requires that recipients encourage the participation of homeless persons in projects in a number of ways.

Recipients of ESG funds (except State recipients) are required by law to provide for the participation of at least one homeless or formerly homeless person(s) in a *policy-making function* within the organization. This might include, for example, involvement of a homeless or formerly homeless person on the Board of Directors or similar entity that considers and sets policy or makes decisions for the recipient agency.

HUD may waive this requirement, however, in the case that a recipient is unable to meet it, if the recipient agrees to *consult* with homeless or formerly homeless persons in making policy or decisions. Grantees/recipients can obtain additional guidance from the HUD State or local Field Office.

All recipients (State, territory, local government or nonprofit organization) are required to involve participants in the *operation* of the ESG-funded program. This involvement includes the participants' employment or volunteering in project activities such as construction, renovation, maintenance, general operation of facilities, or provision of services. For example, a shelter might involve participants in ongoing maintenance tasks or other operations of the facility such as staffing the reception desk. This involvement can include paid and/or volunteer work.

The federal regulation at 24 CFR 576.56 (b) describes this participation as follows:

Participation 24 CFR 576.56 (b)

(1) Each unit of local government and nonprofit recipient that receives funds under this part must provide for the participation of homeless individuals on its policymaking entity in accordance with 42 U.S.C 11375 (d).

(2) Each State, territory, unit of local government, and nonprofit recipient that receives funds under this part must involve homeless individuals and families in providing work or services pertaining to facilities or activities assisted under this part, in accordance with 42 U.S.C 11375 (c) (7).

The regulation refers to the following sections of the statute:

Participation of homeless individuals 42 U.S.C. 11375 (d)

The Secretary shall, by regulation, require each recipient that is not a State to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of such recipient, to the extent that such entity considers and makes policies and decisions regarding any facility services, or other assistance of the recipient assisted under this part. The Secretary may grant waivers to recipients unable to meet the requirement under the preceding sentence if the recipient agrees to otherwise consult with homeless of formerly homeless individuals in considering and making such policies and decisions.

Certifications on Use of Assistance 42 U.S.C. 11375 (c) (7)

Each recipient shall certify to the Secretary that…to the maximum extent practicable, it will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under this part, in providing services assisted under this part, and in providing services for occupants of facilities assisted under this part.

Promising Practice: Participation of Homeless Persons

Participation of homeless or formerly homeless persons in a policy-making or operations function can pose a challenge for ESG-funded program administrators. A shelter in California has found an optimal way to involve homeless residents and formerly homeless persons in administrative functions and policy-making at the shelter. At this shelter for women recovering from substance abuse, residents are required to develop and maintain an individual service plan that establishes goals and milestones in the resident's recovery process. Participants who are successful at maintaining sobriety and meeting service plan goals are eligible to assume the paid position of "house manager" at one of the residential shelter sites. For this particular population, this is a creative way to build the residents' (or former residents') ability to assume responsibility, provide rewards for success, and enable a former resident to serve as a role model. In assigning a former resident to the position of "house manager," the shelter employs a person who is fully aware of the issues and concerns of the residents, and can bring those concerns to shelter administrators. As a former resident, the house manager can more readily relate to and motivate participants and can intervene before problems reach crisis levels.

4.7 Ensuring Confidentiality

To ensure the safety and security of ESG project participants fleeing domestic violence situations, ESG recipients are required to develop and implement procedures to guarantee the confidentiality of records concerning project participants. In addition, the address and location of family violence shelter facilities receiving ESG funding may not be publicly disclosed except with the written authorization of the person(s) responsible for the shelter facility's operation. To comply with this requirement, recipient organizations should, for example, keep written records or files pertaining to families under lock and key with only particular personnel granted access to those files.

The federal regulation at 24 CFR 576.56 describes this requirement:

24 CFR 576.56 (a) (2)

Requirements to ensure confidentiality of records pertaining to the provision of family violence prevention or treatment services with assistance under this part are set forth in 42 U.S.C. 11375 (c) (5).

The federal statute referred to above describes the provision as follows:

> Certifications on Use of Assistance 42 U.S. C. 11375 (c)
>
> (5) It will develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this part and that the address or location of any family violence shelter project assisted under this part will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public.

4.8 Building and Habitability Standards

Any building for which ESG funding is used for renovation, major rehabilitation, or conversion must meet local government safety and sanitation standards. In addition, the following are a number of basic standards to ensure that shelter and housing facilities funded through the ESG program are safe, sanitary, and adequately maintained.

While the following guidance pertains specifically to the Supportive Housing Program (SHP), it can serve as a good reference of basic habitability standards for the ESG program as well. (Note: Excerpted from 24 CFR 583.300 (b))

Structure and Materials. The shelter building should be structurally sound to protect residents from the elements and not pose any threat to health and safety of the residents.

Access. The shelter must be accessible, and there should be a second means of exiting the facility in the case of emergency or fire.

Space and Security. Each resident should have adequate space and security for themselves and their belongings. Each resident must have an acceptable place to sleep.

Interior Air Quality. Each room or space within the shelter/facility must have a natural or mechanical means of ventilation. The interior air should be free of pollutants at a level that might threaten or harm the health of residents.

Water Supply. The shelter's water supply should be free of contamination.

Sanitary Facilities. Each resident should have access to sanitary facilities that are in proper operating condition. These facilities should be able to be used in privacy, and be adequate for personal cleanliness and the disposal of human waste.

Thermal Environment. The shelter/facility must have any necessary heating/cooling facilities in proper operating condition.

Illumination and Electricity. The shelter/facility should have adequate natural or artificial illumination to permit normal indoor activities and support health and safety. There should be sufficient electrical sources to permit the safe use of electrical appliances in the shelter.

Food Preparation. Food preparation areas, if any, should contain suitable space and equipment to store, prepare and serve food in a safe and sanitary manner.

Sanitary Conditions. The shelter should be maintained in a sanitary condition.

Fire Safety-Sleeping Areas. There should be at least one working smoke detector in each occupied unit of the shelter facility. In addition, smoke detectors should be located near sleeping areas where possible. The fire alarm system should be designed for a hearing-impaired resident.

Fire Safety-Common Areas. All public areas of the shelter must have at least one working smoke detector.

4.9 Sanctions for Noncompliance

If HUD determines that a grantee is not complying with the requirements of the ESG regulations or other applicable Federal laws, then HUD may apply one or more of a variety of sanctions on the grantee. These include requiring that previously committed ESG funds are returned to HUD or choosing not to provide future grant funding to the grantee. Specifically, sanctions that may be applied (in addition to any remedies that may otherwise be available) include:

- Issuance of a warning letter indicating that further failure to comply with such requirements will result in a more serious sanction;
- Conditioning of a future grant;
- Directing the grantee to stop incurring costs under the grant;
- Requiring that some or all of the grant amounts already disbursed to the grantee be remitted to HUD;
- Reducing the level of funds the grantee would otherwise be entitled to receive;
- Electing not to provide future grant funds to the grantee until appropriate actions are taken to ensure compliance.

In addition, if a State grantee determines that a State recipient is in noncompliance with the regulations, the State must take appropriate actions. Grant amounts that become available to a State as a result of a sanction must, at the State's option, be made available as soon as practicable to other nonprofit organizations or units of general local government located in the State. Use of these funds falls under the same period of use rules as other ESG funds. A further discussion of reallocation is contained in Section Two of this Guide.

The federal regulation at 24 CFR 576.67 describes the process of applying sanctions as follows:

Sanctions 24 CFR 576.67

(a) HUD sanctions. If HUD determines that a grantee is not complying with the requirements of this part or of other applicable Federal law, HUD may (in addition to any remedies that may otherwise be available) take any of the following sanctions, as appropriate:

(1) Issue a warning letter that further failure to comply with such requirements will result in a more serious sanction;

(2) Condition a future grant;

(3) Direct the grantee to stop the incurring of costs with grant amounts;

(4) Require that some or all of the grant amounts be remitted to HUD;

(5) Reduce the level of funds the grantee would otherwise be entitled to receive; or

(6) Elect not to provide future grant funds to the grantee until appropriate actions are taken to ensure compliance.

(b) State sanctions. If a State determines that a State recipient is not complying with the requirements of this part or other applicable Federal laws, the State must take appropriate actions, which may include the actions described in paragraph (a) of this section. Any grant amounts that become available to a State as a result of a sanction under this section must, at the option of the State, be made available (as soon as practicable) to other nonprofit organizations or units of general local government located in the State for use within the time periods specified in 576.53(a), or to HUD for reallocation under 576.45(d).

(c) Reallocations. Any grant amounts that become available to HUD as a result of the imposition of a sanction under this section will be reallocated under 576.45(d).